

## REMARKS

In the Office Action mailed April 15, 2008, the Examiner noted that claims 1-5, 9, 11, and 20 were pending and rejected claims 1-5, 9, 11, and 20. Claims 1, 9 and 11 have been amended, claim 20 has been canceled without prejudice or disclaimer, new claim 21 has been added; and, thus, in view of the foregoing claims 1-5, 9, 11 and 21 remain pending for reconsideration which is requested. No new matter is believed to have been added. The Examiner's rejections are respectfully traversed below.

Examiner's attention is respectfully directed to the Office Action Summary, which indicates that the Action is non-final. However, page 6 of the Office Action indicates that the action is made final. Because PAIR indicates that the status of the case is non-final (see attachment), the Examiner is requested to correct the error in the Office Action and properly indicate that the Action is non-final.

## CLAIM REJECTION- 35 USC § 103

The Office Action, on page 2, rejected claims 1-5, 9, 11, and 20 under 35 U.S.C. 103(a) as being unpatentable over Ashizaki (U.S. Patent No. 6,829,430) in view of Yoon et al. (U.S. Patent No. 6,173,407, hereinafter "Yoon") in view Fuller et al. (US Patent No. 6,833,865, hereinafter "Fuller") further in view Flamini et al. (US Application Publication 2004/0100486, hereinafter "Flamini").

The Office Action, on page 3, acknowledged that Yoon and Ashizaki fail to teach the contents and the photographed data are stored in separate storage and relies on Fuller to teach this feature.

However, it is submitted that Fuller fails to disclose, either expressly or implicitly, the features quoted below, as claim 1 has been amended to recite "the contents and the photographed data **are acquired separately in time and/or position** and stored in separate storages, and the contents are inserted and edited into the photographed data when the user requests" (claim 1, lines 13-15).

Fuller is related to a digital capture system that has an embedded real-time content-based analysis function in the capture device to extract metadata from the digital signals (see Abstract of Fuller). Particularly, Figure 3 of Fuller illustrates an example of a digital still camera using the Virage VIR Image Engine to capture metadata and further illustrates that the metadata and the image data are managed and stored separately in the storage unit (see column 7, lines 18-23 of Fuller). However, nowhere does Fuller disclose, either expressly or implicitly, that the

contents and the photographed data *are acquired separately in time and/or position*, as in claim 1, but rather the cited portion of Fuller merely relates to managing and storing the metadata and image data separately.

Further, column 3, lines 9-18 of Fuller states that

[a] central theme of the technical approach is that is it most valuable to capture this type of metadata as far “upstream” as possible. This allows the metadata to be exploited throughout the lifecycle of the content, thereby reducing costs and improving access and utilization of the content. The natural conclusion of this approach is to extract the metadata at the point of content capture. Thus, the present invention embeds metadata engines inside of the physical capture devices such as digital still cameras, digital audio/video cameras, and so forth.

Stated another way, Fuller merely relates to extracting the metadata at the point of content capture by embedding metadata engines inside of the physical capture devices. Because, Fuller extracts the metadata at the point of content capture, Fuller cannot disclose, either expressly or implicitly, that the contents and the photographed data *are acquired separately in time and/or position* and stored in separate storages, as in claim 1.

Further, nothing was cited or found in Flamini that cures the deficiencies as discussed above, with respect to claim 1. Therefore, in view of the above, it is submitted that claim 1 is patentable over Ashizaki, Yoon, Fuller, and Flamini as none of the references, taken alone or in combination, disclose, either expressly or implicitly, the features quoted above.

Claims 9 and 11, as amended, emphasize a similar feature as amended claim 1. Therefore, claims 9 and 11 are patentable over Ashizaki, Yoon, Fuller, and Flamini, taken alone or in combination, for reasons similar to those discussed above with respect to claim 1.

The dependent claims 2-5 are also patentable over patentable over Ashizaki, Yoon, Fuller, and Flamini, taken alone or in combination, for at least the same reason as base claim 1, from which they depend.

Because claim 20 has been cancelled, the rejection is considered moot.

Accordingly, withdrawal of the rejection is respectfully requested.

#### **New Claim**

New claim 21 has been added to emphasize “separately acquiring and storing, in separate storages, based on time or position, content that can be inserted in a picture and the picture that includes positional information”, which is supported by Figure 1 of the application. It is submitted that new claim 21 is patentable over the cited references, as none of the

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references, taken alone or in combination, disclose, either expressly or implicitly, at least the features of claim 21, as quoted above.

**Summary**

In accordance with the foregoing, it is respectfully submitted that all outstanding rejections have been overcome and/or rendered moot. Further, all pending claims patentably distinguish over the prior art. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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Date: July 15, 2008

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